

**SENATE JOURNAL
61ST LEGISLATURE
SIXTIETH LEGISLATIVE DAY**

Helena, Montana
March 18, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Squires, excused. Quorum present.

BILLS AND JOURNALS:

3/18/2009

Correctly printed: **SB 100, SB 495, HB 21, HB 45, HB 67, HB 106, HB 129, HB 214, HB 230, HB 243, HB 263, HB 264, HB 270, HB 307, HB 324, HB 326, HB 332, HB 363, HB 366, HB 372, HB 387, HB 432, HB 513, HB 545, HJR 7, HJR 27, SR 15, SR 16, SR 17.**

Correctly engrossed: **SB 260, SB 418, SB 467, HB 55, HB 133, HB 150.**

Correctly enrolled: **SB 40, SB 54, SB 88, SB 170, SB 438, HB 55, HB 133, HB 150.**

Signed by the Speaker at 1:00 p.m., March 18, 2009: **SB 77, SB 150, SB 219, SJR 5, SJR 6, SJR, 16.**

Signed by the President at 4:30 p.m., March 17, 2009: **SB 77, SB 150, SB 219, SJR 5, SJR 6, SJR, 16.**

Signed by the Secretary of the Senate at 3:40 p.m., March 17, 2009: **SB 77, SB 150, SB 219, SJR 5, SJR 6, SJR, 16.**

Examined by the sponsor and found to be correct: **SB 77, SB 150, SJR 5, SJR 6, SJR 16.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

3/18/2009

HB 418, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

3/18/2009

SB 498, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Following: "WELLS;"

Insert: "REQUIRING THE BOARD TO SOLICIT AND CONSIDER COMMENTS FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY PRIOR TO ISSUING AN INJECTION PERMIT AND PRIOR TO ISSUING A CERTIFICATE OF COMPLETION; REQUIRING THE BOARD TO SOLICIT AND CONSIDER COMMENTS FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY PRIOR TO TRANSFERRING LIABILITY TO THE STATE; REQUIRING TESTING AFTER ISSUANCE OF A CERTIFICATE OF COMPLETION AND PRIOR TO TRANSFER OF LIABILITY;"

2. Title, page 1, line 11.

Following: "RESERVOIRS;"

Insert: "EXEMPTING A CARBON DIOXIDE INJECTION WELL FROM GROUND WATER PERMIT REQUIREMENTS;"

Following: "70-30-105,"

Insert: "75-5-103, 75-5-401, 77-3-430,"

3. Page 1, line 17 through line 23.

Strike: section 1 in its entirety

Renumber: subsequent sections

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4. Page 2, line 7.

Strike: "or"

5. Page 2, line 9.

Following: "project"

Insert: "; (c) change or alter common law or statutory provisions regarding the ownership of surface or subsurface rights; or

(d) diminish, impair, or in any way affect the rights of a natural gas public utility, as defined in 82-10-301, to own, operate, or control a gas storage reservoir in use prior to [the effective date of this section]"

6. Page 2, line 14.

Strike: "prior" through "completion,"

Following: the second "to"

Insert: "indefinitely"

7. Page 2, line 15.

Strike: "[section 5(4)(f)]"

Insert: "[section 4(9)(a)]"

Following: "operator."

Insert: "If a geologic storage operator is required to maintain liability pursuant to [section 4(9)(b)], the board may not remit the fee."

8. Page 2, line 21 through line 22.

Following: "managing"

Strike: "a"

Strike: "reservoir" on line 21 through "[section 5(5)]" on line 22

Insert: "reservoirs pursuant to [section 4(6) and (8)]"

9. Page 2, line 24.

Strike: "[section 5]"

Insert: "[section 4]"

10. Page 2, line 30.

Following: "issued"

Insert: "pursuant to [section 4(1)]"

11. Page 3, line 1.

Strike: "[section 5(5)]" through "[section 5(4)(f)]"

Insert: "[section 4(7)]"

12. Page 3, line 7 through page 4, line 13.

Strike: section 5 in its entirety

Insert: "NEW SECTION. **Section 4. Certificate of completion -- department of environmental quality participation -- transfer of liability.** (1) Pursuant to subsection (3), after carbon dioxide injections into a reservoir end and upon completion of the certification requirements pursuant to subsections (4) and (5), the board shall issue the geologic storage operator a certificate of project completion.

(2) The board may adopt rules pursuant to 82-11-111 necessary for implementing subsection (4), including:

(a) rules for public notice and hearing; and

(b) any other rules necessary for administration of this section.

(3) The certificate may not be issued until at least 10 years after carbon dioxide injections end.

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- (4) Subject to subsection (5), the certificate may be issued only if the geologic storage operator:
- (a) is in full compliance with regulations governing the geologic storage reservoir pursuant to this part;
 - (b) shows that the geologic storage reservoir is reasonably expected to retain the carbon dioxide stored in it;
 - (c) shows that all wells, equipment, and facilities to be used in the postclosure period are in good condition and retain mechanical integrity;
 - (d) shows that it has plugged wells, removed equipment and facilities, and completed reclamation work as required by the board;
 - (e) shows that the carbon dioxide in the geologic storage reservoir has become stable, which means that it is essentially stationary or chemically combined or, if it is migrating or may migrate, that any migration will be unlikely to cross the geologic storage reservoir boundary; and
 - (f) shows that the geologic storage operator will continue to provide adequate bond or other surety after receiving the certificate of completion for at least 10 years following issuance of the certificate of completion and that the operator continues to accept liability for the geologic storage reservoir and the stored carbon dioxide.
- (5)(a) Prior to issuing a certificate of completion, the board shall solicit, document, consider, and address comments from the department of environmental quality.
- (b) Notwithstanding subsection (5)(a), the board makes the final decision on issuance of the certificate.
- (6) After issuing a certificate of completion, the board, in conjunction with the operator, shall monitor the wells and reservoir, verifying compliance with subsection (4), for a period of 10 years.
- (7)(a) Following the monitoring and verification required in subsection (6) and subject to subsections (7)(b) and (7)(c), the geologic storage operator may transfer title to the geologic storage reservoir and to the stored carbon dioxide to the state.
- (b) Prior to a transfer of title, the monitoring pursuant to subsection (6) must show, to the satisfaction of the board, that:
- (i) the reservoir and wells are in full compliance with regulations pursuant to this part; and
 - (ii) the reservoir is reasonably expected to maintain its structural integrity and will not allow carbon dioxide to move out of one stratum into another or pollute drinking water supplies.
- (c)(i) Prior to a transfer of title, the board shall solicit, document, consider, and address comments from the department of environmental quality.
- (ii) Notwithstanding subsection (7)(c)(i), the board makes the final decision on the transfer of title.
- (8) If liability is transferred pursuant to subsection (7):
- (a) title is transferred, without payment or any compensation, to the state;
 - (b) title acquired by the state includes all rights and interests in and all responsibilities associated with the stored carbon dioxide;
 - (c) the geologic storage operator and all persons who generated any injected carbon dioxide are released from all regulatory requirements and liability associated with the geologic storage reservoir;
 - (d) any bonds or other surety posted by the geologic storage operator must be released; and
 - (e) monitoring and managing the geologic storage reservoir is the state's responsibility to be overseen by the board until the federal government assumes responsibility for the long-term monitoring and management of geologic storage reservoirs.
- (9)(a) If the operator does not transfer title to the state pursuant to subsection (7), the operator indefinitely accepts liability, except as provided in subsection (10), for the stored carbon dioxide and the geologic storage reservoir.
- (b) If the operator is found not to be in compliance with subsection (7)(b), the operator retains liability until the operator is able to meet the requirements.
- (10) After receiving a certificate of completion, every 10 years after completing the monitoring and verification required by subsection (6), an operator may petition the board and request to transfer liability to the state and be released from liability pursuant to subsection (7). An operator who petitions the board pursuant to this subsection (10) may not request that the fee required by [section 2(1)] be remitted."

Renumber: subsequent subsections

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13. Page 5.

Following: line 24

Insert: "Section 8. Section 75-5-103, MCA, is amended to read:

"75-5-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of environmental review provided for in 2-15-3502.
- (2) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.
- (3) "Council" means the water pollution control advisory council provided for in 2-15-2107.
- (4) (a) "Currently available data" means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.
(b) The term does not mean new data to be obtained as a result of department efforts.
- (5) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).
- (6) "Department" means the department of environmental quality provided for in 2-15-3501.
- (7) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.
- (8) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.
- (9) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether or not those uses are included in the water quality standards.
- (10) "High-quality waters" means all state waters, except:
 - (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the board's classification rules; and
 - (b) surface waters that:
 - (i) are not capable of supporting any one of the designated uses for their classification; or
 - (ii) have zero flow or surface expression for more than 270 days during most years.
- (11) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.
- (12) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.
- (13) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality waters.
- (14) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.
- (15) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.
- (16) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.
- (17) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.
- (18) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the board.

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(19) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(20) "Outstanding resource waters" means:

(a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or

(b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and approved by the legislature.

(21) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point source.

(22) "Parameter" means a physical, biological, or chemical property of state water when a value of that property affects the quality of the state water.

(23) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

(24) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

(25) (a) "Pollution" means:

(i) contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor; or

(ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) A discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter. Activities conducted under the conditions imposed by the department in short-term authorizations pursuant to 75-5-308 are not considered pollution under this chapter.

(c) Contamination of ground water within a geologic storage reservoir, as defined in 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11, part 1, is not pollution and does not require a mixing zone.

(26) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

(27) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

(28) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(29) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

(i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

(30) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards.

(31) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

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(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

(32) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

(33) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

(34) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

(35) "Water quality protection practices" means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

(36) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

(37) "Watershed advisory group" means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704."

Insert: "Section 9. Section 75-5-401, MCA, is amended to read:

"75-5-401. Board rules for permits -- ground water exclusions. (1) Except as provided in subsection (5), the board shall adopt rules:

(a) governing application for permits to discharge sewage, industrial wastes, or other wastes into state waters, including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems;

(b) governing the issuance, denial, modification, or revocation of permits. The board may not require a permit for a water conveyance structure or for a natural spring if the water discharged to state waters does not contain industrial waste, sewage, or other wastes. Discharge to surface water of ground water that is not altered from its ambient quality does not constitute a discharge requiring a permit under this part if:

(i) the discharge does not contain industrial waste, sewage, or other wastes;

(ii) the water discharged does not cause the receiving waters to exceed applicable standards for any parameters; and

(iii) to the extent that the receiving waters in their ambient state exceed standards for any parameters, the discharge does not increase the concentration of the parameters.

(c) governing authorization to discharge under a general permit for storm water associated with construction activity. These rules must allow an owner or operator to notify the department of the intent to be covered under the general permit. This notice of intent must include a signed pollution prevention plan that requires the applicant to implement best management practices in accordance with the general permit. The rules must authorize the owner or operator to discharge under the general permit on receipt of the notice and plan by the department.

(2) The rules must allow the issuance or continuance of a permit only if the department finds that operation consistent with the limitations of the permit will not result in pollution of any state waters, except that the rules may allow the issuance of a temporary permit under which pollution may result if the department ensures that the permit contains a compliance schedule designed to meet all applicable effluent standards and water quality standards in the shortest reasonable period of time.

(3) The rules must provide that the department may revoke a permit if the department finds that the holder of the permit has violated its terms, unless the department also finds that the violation was accidental and unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was reasonably possible.

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(4) The board may adopt rules governing reclamation of sites disturbed by construction, modification, or operation of permitted activities for which a bond is voluntarily filed by a permittee pursuant to 75-5-405, including rules for the establishment of criteria and procedures governing release of the bond or other surety and release of portions of a bond or other surety.

(5) Discharges of sewage, industrial wastes, or other wastes into state ground waters from the following activities or operations are not subject to the ground water permit requirements adopted under subsections (1) through (4):

- (a) discharges or activities at wells injecting fluids associated with oil and gas exploration and production regulated under the federal underground injection control program;
- (b) disposal by solid waste management systems licensed pursuant to 75-10-221;
- (c) individuals disposing of their own normal household wastes on their own property;
- (d) hazardous waste management facilities permitted pursuant to 75-10-406;
- (e) water injection wells, reserve pits, and produced water pits used in oil and gas field operations and approved pursuant to Title 82, chapter 11;
- (f) agricultural irrigation facilities;
- (g) storm water disposal or storm water detention facilities;
- (h) subsurface disposal systems for sanitary wastes serving individual residences;
- (i) in situ mining of uranium facilities controlled under Title 82, chapter 4, part 2;
- (j) mining operations subject to operating permits or exploration licenses in compliance with The Strip and Underground Mine Reclamation Act, Title 82, chapter 4, part 2, or the metal mine reclamation laws, Title 82, chapter 4, part 3; ~~or~~
- (k) projects reviewed under the provisions of the Montana Major Facility Siting Act, Title 75, chapter 20-2

or

- (l) a carbon dioxide injection well for which a permit has been issued pursuant to Title 82, chapter 11, part 1.

(6) Notwithstanding the provisions of 75-5-301(4), mixing zones for activities excluded from permit requirements under subsection (5) of this section must be established by the permitting agency for those activities in accordance with 75-5-301(4)(a) through (4)(c).

(7) Notwithstanding the exclusions set forth in subsection (5), any excluded source that the department determines may be causing or is likely to cause violations of ground water quality standards may be required to submit monitoring information pursuant to 75-5-602.

(8) The board may adopt rules identifying other activities or operations from which a discharge of sewage, industrial wastes, or other wastes into state ground waters is not subject to the ground water permit requirements adopted under subsections (1) through (4).

(9) The board may adopt rules authorizing general permits for categories of point source discharges. The rules may authorize discharge upon issuance of an individual authorization by the department or upon receipt of a notice of intent to be covered under the general permit."

"Section 10. Section 77-3-430, MCA, is amended to read:

"77-3-430. Pooling agreements and unit operations. Nothing contained in this or in prior related laws prevents the board from entering into agreements for the pooling of acreage with others for unit operations for the storage of carbon dioxide in a geologic storage reservoir or the production of oil or gas or both and the apportionment of oil or gas royalties or both on an acreage or other equitable basis and from modifying leases with respect to delay rentals, delay drilling penalties, and royalties in accordance with ~~such~~ pooling agreements and ~~such~~ unit plans of operation. However, ~~such~~ agreements may not change the percentage of royalties ~~to be~~ paid to the state from the percentages ~~as~~ fixed in its leases. The board may modify existing pooling and unit agreements ~~so as~~ to commit the state lands included ~~therein~~ in the pooling or unit agreements for as long as the unitized substance or substances for which the state lands are committed ~~is~~ are produced from any lands in the unit."

Renumber: subsequent sections

14. Page 10, line 7.

Strike: "The"

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Insert: "Subject to subsection (7), the"

15. Page 10, line 23.

Strike: "[section 3]"

Insert: "[section 2]"

16. Page 10, line 30.

Following: "(7)"

Insert: "(a)"

Strike: "may"

Insert: "shall"

17. Page 11, line 1.

Following: "solicit"

Insert: ", document, consider, and address"

18. Page 11.

Following: line 1

Insert: "(b) Notwithstanding subsection (7)(a), the board makes the final decision on issuance of a permit."

19. Page 12, line 20.

Strike: "[section 5(5)]"

Insert: "[section 4(7)]"

20. Page 14, line 21.

Strike: "[section 5]"

Insert: "[section 4]"

21. Page 14, line 22.

Strike: "[section 3]"

Insert: "[section 2]"

22. Page 19, line 3.

Strike: "[section 5(5)]"

Insert: "[section 4(7)]"

23. Page 19, line 13.

Strike: "7"

Insert: "6"

24. Page 19, line 15.

Strike: "7"

Insert: "6"

25. Page 19, line 27.

Strike: "3"

Insert: "2"

Strike: "23"

Insert: "25"

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26. Page 19, line 30.

Strike: ", 2,"

Strike: "24"

Insert: "26"

Strike: "27"

Insert: "29"

And, as amended, do pass. Report adopted.

HJR 1, be concurred in. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

3/17/2009

SB 22, introduced bill, be amended as follows:

1. Page 1, line 24.

Following: "MUST"

Strike: "HOLD A WATER RIGHT IN MONTANA AND"

And, as amended, do pass. Report adopted.

SB 263, introduced bill, be amended as follows:

1. Title, line 4 through line 5.

Following: "~~GOVERNING~~" on line 4

Strike: remainder of line 4 through "BY" on line 5

Insert: "REVISING LAWS GOVERNING"

2. Title, line 8.

Strike: "REQUIRING PUBLIC DEFENDER COSTS TO BE INCLUDED IN A CRIMINAL JUDGMENT;"

Insert: "REQUIRING ASSIGNED COUNSEL TO FILE CERTAIN COSTS WITH THE DISTRICT COURT;"

3. Page 1, line 19 through line 20.

Following: "costs" on line 19

Strike: remainder of line 19 through "JUDGMENT" on line 20

Insert: "costs to be filed with district court"

4. Page 1, line 24.

Following: "proceeding"

Insert: "."

Strike: ", as"

5. Page 1, line 25 through line 26.

Following: "~~47-1-104(5)~~" on line 25

Strike: remainder of line 25 through "ATTORNEY." on line 26

Insert: "If the criminal proceeding is in the district court, counsel assigned by the office of state public defender shall file with the district court a statement of the hours spent on the case and the costs and expenses incurred."

6. Page 2, line 5 through line 10.

Strike: subsection (5) in its entirety

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And, as amended, do pass. Report adopted.

SB 343, introduced bill, be amended as follows:

1. Page 1, line 18.

Following: "wreak"

Strike: "catastrophic"

2. Page 2, line 20.

Following: "wreak"

Strike: "catastrophic"

3. Page 3, line 24.

Strike: "AN"

Insert: "a nonnative,"

4. Page 3, line 25.

Following: "cause"

Strike: "catastrophic"

5. Page 4, line 17.

Following: "individually,"

Strike: "may"

Insert: "shall"

Following: "other or"

Insert: "may enter into an agreement with"

6. Page 4, line 23.

Insert: "(4) The overall coordinating authority is the department of agriculture."

7. Page 4, line 30.

Following: "collectively,"

Strike: "may"

Insert: "shall develop and"

8. Page 7, line 8.

Following: "Departments"

Strike: "may"

Insert: "shall"

Following: "establish"

Insert: "a"

Strike: "stations"

Insert: "station"

And, as amended, do pass. Report adopted.

SB 350, do pass. Report adopted.

SB 402, introduced bill, be amended as follows:

1. Title, lines 7 and 8.

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Following: "DATE" on line 7

Strike: remainder of line 7 through "DATE" on line 8

2. Page 2, line 1.

Strike: subsection (h) in its entirety

Renumber: subsequent subsections

3. Page 2, line 19.

Following: line 18

Insert: "(4) (a) This section does not affect the:

(i) enforcement of the terms of a license, permit, or authorization;

(ii) power or authority of a county, city, or town to lawfully enact valid zoning, subdivision, or other land use regulations or ordinances that are required by law or that are necessary to protect the public health, safety, or welfare.

(b) Compensation may not be claimed under subsection (2) for actions taken pursuant to subsection (4)(a)."

4. Page 2, line 26 through line 28.

Strike: section 4 in its entirety

And, as amended, do pass. Report adopted.

SB 429, introduced bill, be amended as follows:

1. Page 1, line 19.

Insert: "(3) The department of administration shall make these transfers by July 15, 2009."

And, as amended, do pass. Report adopted.

SB 500, introduced bill, be amended as follows:

1. Page 1, line 12 through line 15.

Following: "DA 08-0506" on line 12

Strike: ":" on line 12 through "5%" on line 15

Insert: ", 100%"

And, as amended, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

3/18/2009

HB 221, be amended as follows:

1. Page 3, line 3 through line 4.

Strike: subsection (6) in its entirety

Insert: "(6) Prior to reaching 12 years of age, minors who will reach 12 years of age by the last day of any regularly scheduled hunting season may hunt any game species after August 15 of the license year as long as the minor obtains the necessary license pursuant to this chapter."

2. Page 4, line 25 through line 26.

Strike: subsection (5) in its entirety

Insert: "(5) Prior to reaching 12 years of age, minors who will reach 12 years of age by the last day of any regularly scheduled hunting season may hunt any game species after August 15 of the license year as long as the minor

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obtains the necessary license pursuant to this chapter."

And, as amended, be concurred in. Report adopted.

HB 222, be amended as follows:

1. Title, page 1, line 7.

Strike: "SECTION"

Insert: "SECTIONS 87-1-102 AND"

2. Page 1, line 11.

Following: line 10

Insert: "Section 1. Section 87-1-102, MCA, is amended to read:

"87-1-102. Penalties -- violation of state law. (1) (a) A person who purposely, knowingly, or negligently violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined an amount not less than \$50 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court.

(b) (i) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(ii) After a forfeiture period imposed pursuant to this section and upon receipt of notification from the court that the defendant has appeared and all terms of the court sentence, including making payment of any fine, costs, or restitution, have been met or the defendant is in compliance with installment payments specified by the court, the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the person is in default on any installment payment.

(iii) A person convicted of hunting, fishing, or trapping while the person's license or privilege is forfeited shall be imprisoned in the county detention center for not less than 5 days or more than 6 months and may be fined an amount not less than \$500 or more than \$2,000.

(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

(b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

(c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount not less than \$200 or more than \$600 or imprisoned in the county detention center for not more than 60 days, or both.

(d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of any

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provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and any pelts possessed unlawfully must be confiscated. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

~~— (c) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or a privilege is denied shall be imprisoned in the county detention center for not less than 5 days or more than 6 months. In addition, that person may be fined an amount not less than \$500 or more than \$2,000.~~

(3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the use of spotlights, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a department-sponsored hunter education course.

(4) A person convicted or who has forfeited bond or bail under this section and whose license privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when license privileges have been forfeited shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) A person convicted or who has forfeited bond or bail under this section and who has been ordered to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county detention center for not more than 60 days, or both.

(6) (a) A person convicted of a second offense of any of the following offenses within 10 years of the first conviction or who is convicted of two or more of the following offenses at different times within a 10-year period is subject to the penalties provided in subsection (6)(b):

- (i) hunting during a closed season;
- (ii) spotlighting;
- (iii) hunting without a license;
- (iv) unlawful taking of more than double the legal bag limit;
- (v) unlawful possession of more than double the legal bag limit; and
- (vi) waste of game by abandonment in the field.

(b) ~~(i)~~ A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection (6)(a) shall be fined an amount not less than \$2,000 or more than \$5,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period.

~~(ii) The department shall notify the offender of the loss of privileges.~~

~~— (iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.~~

(7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (7)(b):

- (i) hunting during a closed season;
- (ii) spotlighting;

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(iii) hunting without a license; and

(iv) unlawful taking of more than double the legal bag limit.

(b) ~~(i)~~ A person convicted of the offenses in subsection (7)(a) in the time period specified in subsection (7)(a) shall be fined an amount not less than \$5,000 or more than \$10,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for life.

~~(ii) The department shall notify the offender of the loss of privileges.~~

~~———— (iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.~~

(8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this section to pay the costs of imprisonment under this section.

(9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap upon conviction or forfeiture of bond or bail for a violation of this title.

(10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

(11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

(12) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the same meaning as provided in 45-2-101."

Renumber: subsequent sections

3. Page 2, line 10.

Following: "met"

Insert: "or the person is in compliance with installment payments specified by the court "

Following: "effect"

Insert: "pursuant to 87-1-102(1)"

4. Page 4, line 2.

Following: "met"

Insert: "or the person is in compliance with installment payments specified by the court "

Following: "effect"

Insert: "pursuant to 87-1-102(1)"

And, as amended, be concurred in. Report adopted.

HB 317, be amended as follows:

1. Title, page 1, line 5.

Following: "LICENSE"

Insert: "OR PERMIT ISSUED BY DRAWING"

Strike: "TO A COMBAT ZONE"

Insert: "OUTSIDE OF THE CONTINENTAL UNITED STATES IN SUPPORT OF A CONTINGENCY OPERATION"

2. Title, page 1, line 6.

Following: "LICENSE"

Insert: "OR PERMIT"

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3. Title, page 1, line 7.

Following: "LICENSE"

Insert: "OR PERMIT"

4. Title, page 1, line 8.

Strike: "SECTIONS" through "87-2-702,"

Insert: "SECTION 87-2-803,"

5. Page 1, line 12 through page 4, line 5.

Strike: everything after the enacting clause

Insert: "Section 1. Section 87-2-803, MCA, is amended to read:

"87-2-803. Persons with disabilities -- service members -- definitions. (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection (9).

(4) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection (4) as a permitholder, may hunt by shooting a firearm from:

(i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a state or federal highway;

(ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted; or

(iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle or snowmobile is marked as described in subsection (4)(d) of this section.

(b) This subsection (4) does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner.

(c) A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal.

(d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) A veteran who meets the qualifications in subsection (9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of each license type must be made available annually. Licenses issued to veterans under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in

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53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses, in the manner provided in subsection (2) of this section, and must be accompanied by a companion, as provided in subsection (4)(c) of this section.

(7) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(9) A person is entitled to a permit to hunt from a vehicle if the person:

(a) is certified by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

(b) is an amputee above the wrist or ankle; or

(c) is certified by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

(10) Certification by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant under subsection (9) must be on a form provided by the department.

(11) The department or a person who disagrees with a determination of disability or eligibility for a permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203.

(12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a bear license, upon payment of the resident hunting access enhancement fee provided for in 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election. A member who participated in a contingency operation after September 11, 2001, that required the member to serve at least 2 months outside of the state may make an election in 2007 or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election and be entitled to a free resident wildlife conservation license or a free Class AAA resident combination sports license in the year of election and in any of the 4 years after the member's election.

(b) To be eligible for the free resident wildlife conservation license or free Class AAA resident combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

(c) A Montana resident who meets the service qualifications of subsection (12)(a) and the documentation required in subsection (12)(b) is entitled to a free Class A resident fishing license in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.

(d) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for costs associated with the free licenses granted pursuant to this subsection (12) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.

(13) A member of the armed forces who forfeited a license or permit issued through a drawing as a result of deployment outside of the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year of the

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member's return from deployment or in the first year that the license or permit is made available after the member's return."

And, as amended, be concurred in. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Zinke in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator J. Peterson moved consideration of **SB 114** and **SB 435** be passed for the day. Motion carried.

SB 452 - Senator Curtiss moved **SB 452** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Branae, Cooney, Erickson, Gillan, Hansen, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires excused at this time.

SB 47 - House Amendments - Senator Steinbeisser moved House amendments to **SB 47** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Squires.
Total 1

SB 48 - House Amendments - Senator Essmann moved House amendments to **SB 48 not be concurred in**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 49 - House Amendments - Senator Wanzenried moved House amendments to **SB 49** be concurred in. Motion carried as follows:

Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 41 - Senator Wanzenried moved **HB 41** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Balyeat, Brenden, R. Brown, Hinkle, Jackson, McGee, Ripley, Shockley, Steinbeisser.
Total 9

Absent or not voting: None.

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Total 0

Excused: Squires.

Total 1

HB 72 - Senator Juneau moved **HB 72** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 75 - Senator Keane moved **HB 75** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 27

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Shockley, Tutvedt, Zinke, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 78 - Senator Hinkle moved **HB 78** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Erickson, Gallus, Juneau, Kaufmann, Larsen, Schmidt, Wanzenried, Williams.

Total 8

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Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 93 - Senator Murphy moved **HB 93** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 139 - Senator Curtiss moved **HB 139** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Cooney, Erickson, Juneau, Kaufmann, Moss.
Total 5

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 153 - Senator M. Tropila moved **HB 153** be concurred in. Motion carried as follows:

Yeas: Bales, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Balyeat, Barkus, Barrett, Black, Brenden, Esp, Gebhardt, Hinkle, McGee, Ripley, Shockley.
Total 11

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Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Squires present.

HB 402 - Senator Gebhardt moved **HB 402** be concurred in.

HB 402 - Senator J. Peterson made a **substitute motion** that consideration of **HB 402** be passed for the day.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Laible, Laslovich, Lewis, McGee, Perry, Peterson, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 36

Nays: Cooney, Erickson, Gallus, Hamlett, Juneau, Keane, Larsen, Moss, Murphy, Ripley, Squires, J. Tropila, M. Tropila, Windy Boy.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires excused at this time.

HJR 22 - Senator Williams moved **HJR 22** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

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MOTIONS

Senator Peterson moved to suspend the rules and to place **HJ 22** on third reading this day. Motion carried.

Senator Peterson moved to place **HJ 22** on third reading this day. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 100 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Erickson, Juneau, Kaufmann, Moss, Stewart-Peregoy, M. Tropila.

Total 6

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 45 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 67 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

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Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 129 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Brenden, Curtiss, Hinkle, McGee, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 270 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 324 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

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Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 332 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Barkus, R. Brown, Juneau.

Total 3

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 363 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 366 concurred in as follows:

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Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Erickson, Hansen, Hawks, Juneau, Kaufmann, Stewart-Peregoy, Williams.

Total 7

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 432 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Cooney, Essmann, Larsen, Laslovich, Tutvedt, Wanzenried.

Total 6

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 545 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HJR 27 concurred in as follows:

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Yeas: Bales, Balyeat, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Barkus, Black, Brenden, Esp, Hinkle, Jackson, McGee.

Total 7

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HJR 22 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SPECIAL ORDERS OF THE DAY

Sen. Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolutions No.8, and that they ayes and nays be spread upon the journal. Motion **failed** as follows:

Yeas: Bales, Barrett, Branae, Brenden, T. Brown, Cooney, Esp, Gillan, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Steinbeisser, M. Tropila, Wanzenried, Williams, Mr. President.

Total 24

Nays: Balyeat, Barkus, Black, R. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke.

Total 25

Absent or not voting: None.

Total 0

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Excused: Squires.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, March 19, 2009. Motion carried.

Senate adjourned at 2:36 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate